

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FERNANDO NAVARRO HERNANDEZ,

Petitioner,

v.

WILLIAM GITTERE, *et al.*,

Respondents.

Case No. 3:09-cv-00545-LRH-WGC

ORDER

In this capital habeas corpus action, the petitioner, Fernando Navarro Hernandez, who is represented by appointed counsel, filed a Fifth Amended Petition for Writ of Habeas Corpus on October 11, 2019 (ECF No. 221). The fifth amended petition is Hernandez's operative petition. Various of the claims in the fifth amended petition have been dismissed upon motions to dismiss by the respondents. See Order entered February 4, 2019 (ECF No. 184); Order entered September 10, 2020 (ECF No. 242). Respondents' answer, responding to the claims remaining in the fifth amended petition, is due July 7, 2021. See Order entered June 7, 2021 (ECF No. 280).

On April 19, 2021, Hernandez filed, *pro se*, a document entitled "Motion for Appropriate Relief, or, in the Alternative, Motion for New Trial" (ECF No. 277) (hereafter "*Pro Se Motion for Appropriate Relief*"). In that document, Hernandez:

moves the Court to set aside the sentence of death and the judgment of conviction and ... order ... the Nevada Department of Corrections (NDOC) that any money deposited in his Trust 2 Account indefinitely, or, to order the NDOC to put in hold any deduction that become derived from his judgment of conviction indefinitely and to grant Hernandez a new trial, or, in the alternative, to grant Hernandez motion for appropriate relief (MAR) on all the charges in the [Complaint] filed date 10/14/1999 and in the

Information filed date 11/12/1999, on the ground that Hernandez have obtained Real Evidence in the form of photographs and in the form that over two (2) decade later the prosecution still withheld favorable evidence from Hernandez that could have proven Hernandez [innocent] or at least led to a more favorable result

Pro Se Motion for Appropriate Relief (ECF No. 277), pp. 1–2.

On April 30, 2021, Respondents filed a Motion to Strike (ECF No. 278), requesting that the Court strike the *Pro Se* Motion for Appropriate Relief (ECF No. 277).

Respondents cite the Court’s Local Rule LR IA 11-6(a), which states:

Unless the court orders otherwise, a party who has appeared by attorney cannot while so represented appear or act in the case. This means that once an attorney makes an appearance on behalf of a party, that party may not personally file a document with the court; all filings must thereafter be made by the attorney. An attorney who has appeared for a party must be recognized by the court and all the parties as having control of the client’s case, however, the court may hear a party in open court even though the party is represented by an attorney.

LR IA 11-6(a). Under the circumstances here, in view of the nature of Hernandez’s *Pro Se* Motion for Appropriate Relief, the Court will grant Respondents’ motion and order the *Pro Se* Motion for Appropriate Relief stricken from the record under LR 1A 11-6(a).

IT IS THEREFORE ORDERED that Respondents’ Motion to Strike (ECF No. 278) is **GRANTED**. Petitioner’s *Pro Se* Motion for Appropriate Relief (ECF No. 277) will be stricken from the record. The Clerk of the Court is directed to update the docket as necessary to reflect this order.

DATED this 9th day of June, 2021.


LARRY R. HICKS
UNITED STATES DISTRICT JUDGE